

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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FILED
1992 APR 29 PM 1:19
SECRETARY OF STATE
WEST VIRGINIA

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 9

TITLE OF RULE BEING PROPOSED: Voting

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 1

SECTION 64-2-8(f), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 1, 1992

R. M. Alker

2.30

1 On page four, by striking out all of section 9 and inserting
2 in lieu thereof a new section 9 to read as follows:

Ad - 3 "Full-time appointed public officials and part-time and full-
4 time public employees may not receive private compensation for
5 performing private work during public work hours. This section
6 shall not apply to de minimus private work."

7 (f) The legislative rules filed in the state register on the
8 thirty-first day of January, one thousand nine hundred ninety-
9 one, modified by the ethics commission to meet the objections of
10 the legislative rule-making review committee and refiled in the
11 state register on the seventeenth day of December, one thousand
12 nine hundred ninety-one, relating to the ethics commission
13 (voting), are authorized, with the amendments set forth below:

14 On page one, subsection 2.2, by striking out the second and
15 third paragraphs of subsection 2.2;

16 And,

Ad - 17 On page one, after subsection 2.3, by adding a new
18 subsection, designated subsection 2.4 to read as follows:

19 "2.4 In any case where a Senator or Delegate is voting as
20 part of their official duties of office, the members of the
21 Senate and the members of the House of Delegates are governed by
22 the rules of their respective houses. The provisions of
23 subsection 2.3 of this rule shall not apply to members of the
24 Legislature when acting as a member thereof."

**SERIES 9
VOTING**

158-9-1 General Provisions

1.1 Scope -- These legislative rules establish the guidelines for voting for persons covered by the WV Governmental Ethics Act.

1.2 Authority -- WV Code Section 6B-1-2(c) and 6B-2-5(d)(1)

1.3 Filing Date --

1.4 Effective Date --

158-9-2 Personal

2.1 A public official or public employee may not vote on or decide a matter that has become "personal" to that individual.

2.2 For the purpose of this section a matter will be considered "personal" to a public official or public employee when he or she has any pecuniary interest either directly or indirectly in the matter or is affected in a manner which may influence his or her vote or would clearly give the appearance of impropriety. An interest is not "personal" if the interest of the public official or public employee in the matter is affected as a member of, and to no greater extent than any other member of, a profession, occupation or class.

In cases involving members of the West Virginia Senate, every member within the Senate Chamber, when a question is put, shall vote unless he or she is immediately and particularly interested therein, meaning an interest that affects the member directly and not as one of a class, or the Senate excuses him or her. All motions to excuse a member from voting must be made by the member requesting to be excused before the Senate divides, or before the call of the yeas and nays is commenced, and it shall be decided without debate, except that the member making the motion to be excused from voting may briefly state the reason why it ought to be adopted.

In cases involving members of the West Virginia House of Delegates, when a question is put, any member having a direct personal or pecuniary interest therein should announce this fact and request to be excused from voting. This disqualifying interest must be such as affects the member directly and not as one of a class.

2.3 For a public official or public employee's recusal to be effective, it is necessary for the official or employee to excuse himself from participating in the discussion and decision-making process by physically removing himself from the room during that period, fully disclose his interest and recuse himself from voting on the issue.

LL57

Bill Ethics, Voting 158-9

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H. B. 4277

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the

Committee on the Judiciary)

10 A BILL to amend article two, chapter sixty-four of the code of
11 West Virginia, one thousand nine hundred thirty-one, as
12 amended, by adding thereto a new section, designated section
13 eight, relating to authorizing the ethics commission to
14 promulgate legislative rules relating to voting.

15 Be it enacted by the Legislature of West Virginia:

16 That article two, chapter sixty-four of the code of West
17 Virginia, one thousand nine hundred thirty-one, as amended, be
18 amended by adding thereto a new section, designated section
19 eight, to read as follows:

20 ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO
21 PROMULGATE LEGISLATIVE RULES.

22 §64-2-8. Ethics commission.

23 The legislative rules filed in the state register on the
24 thirty-first day of January, one thousand nine hundred ninety-

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1 one, modified by the ethics Commission to meet the objections of
2 the legislative rule-making review committee and refiled in the
3 state register on the seventeenth day of December, one thousand
4 nine hundred ninety-one, relating to the ethics commission
5 (voting), are authorized.

6

7 NOTE: The purpose of this bill is to authorize the Ethics
8 Commission to promulgate legislative rules relating to voting.

9

10 This section is new; therefore, strike-throughs and
11 underscoring have been omitted.



WV ETHICS COMMISSION

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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA OCT 19 12:58
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

RECEIVED

TO: Lucy

AGENCY: Ethics Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 9 TITLE: 158 Ethics Commission

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]
TITLE OF PERSON SIGNING: EX. DIR.
DATE: OCT. 22 '92

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.